

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Hiroshi Mikitani

Application No.: 09/653,163

Confirmation No.: 5466

Filed: September 1, 2000

Art Unit: 3628

For: LOTTERY SYSTEM UTILIZING  
ELECTRONIC MAIL

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Examiner: I. N. Borissov

**REPLY BRIEF**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

This is a Reply Brief under 37 C.F.R. §41.41 in response to the Examiner's Answer mailed on June 28, 2010.

All arguments presented within the Reply Brief of September 8, 2010 and the Appeal Brief of April 9, 2009 are incorporated herein by reference.

Page 3 of the Examiner's Answer includes New Grounds of Rejection.

Accordingly, Appellant request that the appeal be maintained by filing this Reply Brief, which also addresses the *new ground of rejection*. 37 C.F.R. §41.39.

**I. REAL PARTY IN INTEREST**

Rakuten Inc. of Tokyo, Japan ("Rakuten") is the real party in interest of the present application. Assignments of all rights in the present application to Rakuten were executed by the inventors and recorded by the U.S. Patent and Trademark Office at **Reel 11342, Frame 0522**.

**II. RELATED APPEALS AND INTERFERENCES**

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

Within the Examiner's Answer of June 28, 2010:

Page 3 of the Examiner's Answer indicates a rejection of claims 1, 10, 17 and 21 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Within the Final Office Action of January 29, 2008:

Page 2 of the Final Office Action indicates a rejection of claims 1-4, 6, 8-13 and 16-22 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos.

Page 8 of the Final Office Action indicates a rejection of claims 8 and 9 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application

Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos and further in view of US Patent No. 6,024,641 to Sarmo.

Page 9 of the Final Office Action indicates a rejection of claim 23-26 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos and further in view of US Patent No. 6,193,605 to Libby et al.

Thus, the status of the claims is as follows:

Rejected	Claims 1-4
Canceled	Claim 5
Rejected	Claim 6
Canceled	Claim 7
Rejected	Claims 8-13
Canceled	Claim 14-15
Rejected	Claims 16-26

No claims are indicated within the Final Office Action to contain allowable subject matter.

The claims on appeals are claims 1-4, 6, 8-13, and 16-26 which are presented in the Claims Appendix.

#### **IV. STATUS OF AMENDMENTS**

Provided is a statement of the status of any amendment filed subsequent to final rejection.

No amendment has been filed after Final Office Action.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The following description is provided for illustrative purposes and is not intended to limit the scope of the invention.

**1. Claim 1**

Claim 1 is drawn to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising:

storing means for storing information of customers (page 10 lines 17-24; FIG. 4);

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

means for uniquely allocating a reply electronic mail address to each of said specified participants, so that said reply electronic mail addresses are different from each other (page 6, lines 11-18);

means for sending a first electronic mail to each of said participants, in which the reply electronic mail address is affixed as a unique access key to each of said participants (page 6, lines 19-21; FIG. 4);

means for recognizing an application for the lottery from each of said participants by receiving a second electronic mail sent back to said reply electronic mail address (page 6, line 23 to page 7, line 27); and

means for notifying each one of said participants who sent back the second electronic mail to the reply electronic mail address of the result of said lottery (page 8, lines 13-30; FIG. 4).

## **2. Claim 6**

Claim 6 is drawn to the lottery system according to claim 1, wherein the notifying means (S218, S318) notifies the result of said lottery to each of the participants, by sending a third electronic mail in which a URL of a page informing of the result and an access keyword, are affixed, to each of the participants (Figures 4, 5; page 8, lines 13-24; page 11, lines 8-27).

## **3. Claim 8**

Claim 8 depends on claim 6 which depends on claim 1. One of the aspects of he claimed subject matter relates to a lottery system utilizing an electronic mail, wherein the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

Claim 8 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B) according to claim 6, wherein the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize (page 9 line 21 to page 10 line 15; FIG. 4).

## **4. Claim 9**

Claim 9 depends on claim 6 which depends on claim 1. Another aspect of the claimed subject matter relates to a lottery system utilizing an electronic mail, wherein by entering said access keyword and a destination electronic mail address to which the third electronic mail is sent, into the page informing of said result, the page for the win of the prize or the page of the failure in winning the prize can be accessed.

Claim 9 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B) wherein by entering said access keyword and a destination electronic mail address to which the third electronic mail is sent, into the page informing of said result, the page for the win of the prize or the page of the failure in winning the prize can be accessed (page 9, lines 6-12; FIG. 4).

**5. Claim 10**

Claim 10 is drawn to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising:

storing means for storing information of customers (page 10 lines 17-24; FIG. 4);

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

means for uniquely allocating a keyword to be entered in a page of a URL, to each of the participants so that the keywords are different from each other (page 13, lines 14-32; FIG. 6);

means for sending an electronic mail in which the keyword is affixed as a unique access key, to each of the participants (page 14, lines 1-10; FIG. 6);

means for recognizing an application from each of said participants when said participant accesses the page of said URL and enters the keyword (page 14, line 12 to page 15, line 2; FIG. 6); and

means for notifying each of said participants of the result of the lottery (page 15, lines 4-18; FIG. 6).

**6. Claim 11**

Claim 11 is drawn to the lottery system according to claim 10, wherein the keyword is a destination mail address of said electronic mail (page 7, lines 18-22; page 11, lines 1-6).

**7. Claim 16**

Claim 16 is drawn to a method for conducting a lottery (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising the steps of:

storing information of customers in a database (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B);

limiting the customers stored in the database in advance so as to specify particular participants for a lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

allocating uniquely a reply electronic mail address to each of said specified participants so that the reply electronic mail addresses are different from each other (page 6, lines 11-18);

sending by a host a first electronic mail in which the reply electronic mail address is affixed as a unique access key to each one of a plurality of said specified participants (page 6, lines 19-21; FIG. 4);

recognizing said specified participants for a lottery by receiving a second electronic mail sent back to said reply electronic mail address from each of said participants (page 6, line 23 to page 7, line 27);

conducting said lottery (page 7, line 28 to page 8, line 11; FIG. 4); and

notifying each one of the participants who sent back the second electronic mail of their result of said lottery (page 8, lines 13-30; FIG. 4).

#### **8. Claim 17**

Claim 17 is drawn to lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising:

storing means for storing information of customers (page 10 lines 17-24; FIG. 4);

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

means for uniquely allocating a URL to each of said participants so that the URLs are different from each other (page 13, lines 14 to page 14 line 5; FIG. 6);

means for sending an electronic mail in which the URL is affixed as a unique access key to each of the participants (page 14, lines 1-10; FIG. 6);

means for recognizing an application from each of the participants when the participant accesses a page of the URL and enters an electronic mail address of the participant (page 14, line 12 to page 15, line 2; FIG. 6); and

means for notifying each of said participants of the result of said lottery (page 15, lines 4-18; FIG. 6).

#### 9. Claim 19

Claim 19 is drawn to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising:

storing means for storing information of customers (page 10 lines 17-24; FIG. 4);

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

means for providing at least one electronic mail address (page 6, lines 11-18);

means for allocating uniquely the at least one electronic mail address to each one of the specified participants so that the electronic mail addresses are different from each other (page 6, lines 11-18);

means for sending by a host a first electronic mail to each one of the specified participants, wherein the uniquely allocated at least one electronic mail address is affixed to the first electronic mail (page 6, lines 19-21; FIG. 4);

means for receiving a second electronic mail sent from each one of the specified participants to the uniquely allocated at least one electronic mail address, so as to recognize the participants (page 6, line 23 to page 7, line 27);

means for conducting the lottery (page 7, line 28 to page 8, line 11; FIG. 4); and  
means for notifying each one of the recognized participants who sent the second  
electronic mail, of a result of the lottery (page 8, lines 13-30; FIG. 4).

#### **10. Claim 20**

Claim 20 is drawn to a method for conducting a lottery (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B), comprising the steps of:

- storing information of customers in a database (page 10 lines 17-24; FIG. 4);
- limiting the customers stored in the database in advance so as to specify particular participants for the lottery (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);
- providing at least one electronic mail address (page 6, lines 11-18);
- allocating uniquely the at least one electronic mail address to each one of the specified participants so that the electronic mail addresses are different from each other (page 6, lines 11-18);
- sending by a host a first electronic mail to each one of the specified participants, wherein the uniquely allocated at least one electronic mail address is affixed to the first electronic mail (page 6, lines 19-21; FIG. 4);
- receiving a second electronic mail sent from each one of the specified participants to the uniquely allocated at least one electronic mail address, so as to recognize the participants (page 6, line 23 to page 7, line 27);
- conducting the lottery (page 7, line 28 to page 8, line 11; FIG. 4); and
- notifying each one of the recognized participants who sent the second electronic mail, of a result of the lottery (page 8, lines 13-30; FIG. 4).

**11. Claim 21**

Claim 21 is drawn to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B) comprising:

recording means for recording information concerning customers, each of which has an electronic mail address (page 10 lines 17-24; FIG. 4);

means for limiting the customers in advance so as to specify a main group for performing a lottery, said main group being defined by at least one of the customers (page 5, lines 15-28 and page 6, lines 5-11; FIGS. 3A, 3B and 4);

means for issuing a unique access key to be affixed to said electronic mail address of each of said participants of said main group (page 6, lines 5-18);

means for assigning said unique access key to said electronic mail address to generate a reply electronic mail address for the lottery after specifying said main group for the lottery (page 6, lines 5-18);

means for recording said unique access key in association with said electronic mail address of each of said participants of said main group (page 6, lines 5-18);

means for sending by a host a first electronic mail to said reply electronic mail address of each of said participants of said main group, in which said unique access key is affixed to said reply electronic mail address of each of said participants of said main group (page 6, lines 19-21; FIG. 4);

means for recognizing an application for the lottery from each of said participants by receiving a second electronic mail sent back to said reply electronic mail address (page 6, line 23 to page 7, line 27);

means for distinguishing said access key with reference to said means for recording said unique access key (page 7, lines 4-27);

means for conducting the lottery (page 7, line 28 to page 8, line 11; FIG. 4); and  
means for notifying each one of said participants who sent back said second electronic  
mail to said reply electronic mail address, of the result of said lottery (page 8, lines 13-30; FIG. 4).

#### **12. Claim 23**

Claim 23 depends on claim 21. An aspect of the claimed subject matter relates to a  
lottery system utilizing an electronic mail,

Claim 23 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to  
page 5, line 14; FIGS. 3A and 3B), wherein said drawing is performed on the basis of the number of  
said participants of said main group (page 15, lines 4-12, FIG. 6).

#### **13. Claim 24**

Claim 24 depends on claim 21. An aspect of the claimed subject matter relates to a  
lottery system utilizing an electronic mail,

Claim 24 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to  
page 5, line 14; FIGS. 3A and 3B), wherein said means for conducting the lottery generates random  
number on the basis of the number of said participants of said main group, thereby obtaining the  
result of said lottery (page 15, lines 4-12, FIG. 6).

#### **14. Claim 25**

Claim 25 depends on claim 21. An aspect of the claimed subject matter relates to a  
lottery system utilizing an electronic mail,

Claim 25 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to  
page 5, line 14; FIGS. 3A and 3B), wherein said lottery system further comprising means for  
recording a result of the lottery (page 9, line 3-5, page 10, line 16-24); wherein the result of said  
lottery is previously decided on the basis of the number of said participants of said main group

before sending said electronic mail (page 6, 28-30), and wherein said means for conducting the lottery includes means for confirming said unique access key with reference to said means for recording the result of the lottery when receiving said second electronic mail (page 9, line 6-19, FIG. 4).

### **15. Claim 26**

Claim 26 depends on claim 21. An aspect of the claimed subject matter relates to a lottery system utilizing an electronic mail,

Claim 26 is directed to a lottery system utilizing an electronic mail (page 4, line 32 to page 5, line 14; FIGS. 3A and 3B) wherein said means for conducting the lottery generates random number on the basis of the number of said participants of said main group, thereby deciding the result of the lottery (page 7, line 28 to page 8, line 6).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Whether the Examiner erred on page 3 of the Examiner's Answer by the rejection of claims 1, 10, 17 and 21 under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Whether the Examiner erred on page 2 of the Final Office Action by the rejection of claims 1-4, 6, 8-13 and 16-22 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos.

Whether the Examiner erred on page 8 of the Final Office Action by the rejection of claims 8 and 9 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos and further in view of US Patent No. 6,024,641 to Sarmo.

Whether the Examiner erred on page 9 of the Final Office Action by the rejection of claim 23-26 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 to Strandberg in view of US Patent No. 5,983,196 to Wendkos and further in view of US Patent No. 6,193,605 to Libby et al.

## VII. ARGUMENT

For at least the following reasons, Appellants submit that the rejection of the claims is legally unsound and should therefore be reversed.

For purposes of this appeal brief only, and without conceding the teachings of any prior art reference, the claims have been grouped as indicated below.

- 1. The Examiner erred in the Examiner's Answer of June 28, 2010 on page 3 by indicating a "New Ground of Rejection" of claims 1, 10, 17 and 21 under 35 U.S.C. §112, second paragraph.**

Page 5 of the Examiner's Answer asserts that *Appellants have failed to adequately describe sufficient structure for performing the functions claimed for claim 1 as well as for claims 10, 17, and 21 which contain similar limitations.*

Please refer at least to Figures 4 and 5 of the specification for the claims on appeal.

The structure of claims 1, 10, 17, and 21 is readily apparent to the skilled artisan as follows.

**Claim 1**

S260, S330	storing means
S210, S310	means for limiting the customers stored in the storing means
S202, S302	means for uniquely allocating a reply electronic mail address
S202, S302	means for sending a first electronic mail
S210, S310	means for recognizing an application for the lottery
S218, S318	means for notifying each one of said participants

**Claim 10**

S260, S330	storing means
S210, S310	means for limiting the customers stored in the storing means
S212, S216, S312, S316	means for uniquely allocating a keyword
S218, S318	means for sending an electronic mail
S250, S252, S322, S324	means for recognizing an application
S256, S258, S326, S328	means for notifying each of said participants

**Claim 17**

S260, S330	storing means
S210, S310	means for limiting the customers stored in the storing means
S212, S216, S312, S316	means for uniquely allocating a URL
S218, S318	means for sending an electronic mail
S210, S310	means for recognizing an application for the lottery
S218, S318	means for notifying each of said participants

<b>Claim 21</b>	
S260, S330	recording means
S210, S310	means for limiting the customers in advance
S212, S216, S312, S316	means for issuing a unique access key
S212, S216, S312, S316	means for assigning said unique access key
S212, S216, S312, S316	means for recording said unique access key
S202, S302	means for sending by a host a first electronic mail
S210, S310	means for recognizing an application for the lottery
S252, S322, S324	means for distinguishing said access key
S210, S310	means for conducting the lottery
S218, S318	means for notifying each one of said participants

2. The Examiner erred in the Final Office Action of January 29, 2008 on page 2 (*also on page 8 of the Examiner's Answer*) by indicating a rejection of claims 1-4, 6, 8-13 and 16-22 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 (Strandberg) in view of US Patent No. 5,983,196 (Wendkos).

a. For the purposes of this rejection only, claims 1-4, 12-13, 16, and 19-22 stand or fall together.

Claims 2-4, 8-9, and 12-13 are dependent upon claim 1.

Claims 16 and 19-22 are independent claims.

- i. The claims include limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery.

1. **Strandberg.**

The Examiner's Answer on page 9 reaffirms that:

*Strandberg does not specifically teach that said telemarketing campaign includes conducting a lottery; that said system includes means for limiting the customers (stored in the database) in advance so as to specify participants for the lottery; and notifying each one of the participants of their result of said lottery.*

2. **Wendkos.**

The specification for the claims on appeal provides the following in the paragraph beginning at page 5, line 15:

Furthermore, as shown in Fig. 3B, in the lottery system of the present invention, an access key such as an ID for applying for the lottery is separately sent to each of customers and potential customers 118, who eventually become participants 116, by a host 122 of the lottery via electronic mail. Thus, participants 116 for the lottery can be limited to particular customers. When the prize competition is performed based on mail addresses of customers and potential customers, which are obtained by various kinds of ways, it will be possible to collect more accurate data in which a main group of participants can be specified. This would be less true in a conventional prize competition on the Internet. The issuing of individual keywords can increase a reply ratio from objective persons, and doing so exhibits effects for advantageous data collection.

However, Figure 1 of Wendkos arguably shows that an interactive platform 110 is connected to network 100 for servicing interactions with program participants over the network (Wendkos at column 6, lines 36-38).

Wendkos discloses the following in the paragraph beginning at column 6, line 48:

FIG. 2 is a block diagram of an exemplary interactive platform of the type shown in FIG. 1. The interactive platform includes a processor 200 coupled to a network over communications interface 210. Communications interface 210 is typically a communications board connected to the bus of the processor. A smart data base 220 contains the information needed to administer the awards program in accordance with the invention. Smart processes 230 are selectively executed as described more in detail hereinafter.

Wendkos discloses the following in the paragraph beginning at column 6, line 57:

FIG. 3 is a representation of an exemplary smart data base shown in FIG. 2. The smart data base, in reality, consists of a plurality of data bases. It includes a participant data base 310, an award data base 320, a call flow table data base 330 and a certificate data base 340. Typical or exemplary record layouts for these databases are shown respectively in FIGS. 4, 5, 6 and 7.

Figure 4 of Wendkos is a representation of an exemplary field layout for a participant database stored on the CPU in accordance with the invention (Wendkos at column 6, lines 64-66).

To account for the features that are admitted deficient from within Wendkos, page 16 of the Examiner's Answer on page refers to column 10, lines 35-53, of Wendkos in asserting that:

*Specifically, Wendkos teaches that only selected participants, who have made certain amount of purchases, are selected to participate in promotion/lottery.*

Page 17 of the Examiner's Answer concludes that “*As one can see from this paragraph, the sponsor can identify those participants who have fulfilled certain requirements.*”

In response, Wendkos arguably discloses the following in the paragraph beginning at column 10, line 34:

A particularly powerful use of this capability is found under the circumstance when a sponsor of a promotional program wishes to identify his "good customers." A good customer might be defined as a customer who has made three purchases of a particular type in the last thirty days. By invoking the name and address capture routine of FIGS. 11A and 11B, only for those participants who have registered certificates for the three purchases in question within thirty days, the sponsor of the program can receive a list of names and addresses which contain only those customers who have made such purchases. In the prior art, a sponsor of a program was limited to either capturing everyone's name and address, or no one's. This permits the name and address capture to be customized to the needs of the particular sponsor. As a result, since the cost of direct mailings is very high, the sponsor can customize a mailing to only his best purchasers, however the sponsor may define that term. As a result, a sponsor will not waste resources in conducting a direct mailing to customers who might not be responsive to his entreaties.

However, Wendkos fails to disclose, teach, or suggest limiting the customers stored participant data base 310 prior to the customers becoming participants in the awards program.

In particular Wendkos provides that there is a record kept, for example, in the format shown in Figure 4, for each participant in the incentive awards program (Wendkos at column 6, line 66 to column 7, line 1).

Yet, Wendkos fails to disclose the “customers” becoming “participants who eligible for the incentive awards program”.

Specifically, Figure 5 of Wendkos illustrates a layout of an exemplary award level table in accordance with the invention (Wendkos at column 7, lines 40-41).

The award level table basically associates the credits required to earn an award with an award code and a description of the award (Wendkos at column 7, lines 42-44).

In this regard, Wendkos fails to disclose limiting a set of “*customers*” to the subset of “*participants who eligible for the incentive awards program*” especially when each and every customer described within Wendkos is already a participant of the incentive awards program (Wendkos at column 10, lines 35-53).

Since Wendkos describes customers and participants as being one in the same, there is no disclosure within Wendkos of a larger database of customers being pared down or “*limited*” to a smaller database of participants.

- ii. The claims include uniquely allocating a reply electronic mail address to each of said specified participants, so that said reply electronic mail addresses are different from each other.

#### 1. Strandberg.

Strandberg arguably discloses that this e-mail message may contain information such as the information requested by the interested party, information concerning an account delinquency, a request for the interested party to call a particular telephone number, and/or a Uniform Resource Locator (URL) address of a particular Internet-World Wide Web address, including a unique ID to link to an interested party database record (Strandberg at paragraph [0019]).

Strandberg arguably discloses that using a form of Internet relay chat, the agent and the interested party are linked by the unique ID (Strandberg at paragraph [0020]).

Strandberg arguably discloses the following:

[0023] In one preferred embodiment of the present invention, the email message will have two parts: a first part, which contains the e-mail address of the interested party

and the particular message to be sent to the interested party; and a second part containing a response message portion. The response message portion includes at least one response method, which provides access to the call center and a unique ID, which identifies the interested party. The available response methods include "http" and "mail to". The http method includes a URL address along with the unique ID and/or the call center telephone number along with the unique ID. The mail to method includes the call center e-mail address along with the unique ID. When any of these methods are used, the unique ID will allow logging date and time indications when the message was read and responded to by the interested party at the interested party data terminal 10. The date and time can be stored in the e-mail log data base 180 and also in the interested party database 200. Of course, different mail programs allow embedding alternative active objects (e.g., Java, Activex, and Javascript), which can be used for automatic response methods.

Strandberg arguably discloses the following:

[0025] In step 330, the interested party retrieves the e-mail message and the response message portion sends the unique ID to the sender call center. If return receipt response is available, the unique ID is sent to the mail address, providing date of receipt. When a user selects URL or other response methods, the unique ID will post the date/time of receipt to the Web page 120. Step 340, the Web page 120 retrieves the response message unique ID and stores the date and time portion in the e-mail log database 180, and the interested party database 200. Other information that will be stored includes the response method chosen and the type of Web browser or e-mail program being used. This information will assist the call center in contacting an interested party on future attempts.

However, Strandberg fails to disclose, teach, or suggest the unique ID of Strandberg being a reply electronic mail address.

Page 18 of the Examiner's Answer contends the following:

*In response to this argument the examiner points out that the main purpose of allocating uniquely said reply electronic mail addresses to each of said participant is that said reply electronic mail addresses are different from each other (claim language), or that each participant can be recognized. Strandberg teaches allocating a unique ID (to be inserted into participants' reply e-mail) to each of the participants so, that each participant can be recognized by this ID in his/her reply e-mail [0019]. Accordingly, so as the purpose of allocating the unique ID in Strandberg's system is the same as allocating the unique e-mail address in the applicant's invention, the examiner maintains that teaching of Strandberg is equivalent to the inventive feature in question.*

In response, the language found within claims 1-4, 6, 12-13, and 16 is both express and unequivocal. Any reconstruction within the Examiner's Answer of the claim language would merely be an attempt to recast the features of the claimed invention without providing any objective line of reasoning to show that a lack of clarity is, indeed, found within the claim language.

Here, the assertion within the Examiner's Answer of a "*main purpose of allocating uniquely said reply electronic mail addresses*" may quite possibly be such an attempt to recast the express language found within the claims by redefining the invention in a manner different than from what is set forth within the claims.

Such reconstruction of claims 1-4, 6, 12-13, and 16, if present within the Examiner's Answer, is without authority under Title 35 U.S.C., Title 37 C.F.R., the M.P.E.P. and relevant case law; such reconstruction would therefore be deemed both improper and inappropriate.

Furthermore, the Examiner's Answer apparently asserts on page 18 that "*the unique ID in Strandberg's system*" and the "*reply electronic mail address*" are one in the same.

In response, the Patent and Trademark Office (PTO) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction “*in light of the specification as it would be interpreted by one of ordinary skill in the art*”. *Phillips v. AWH Corp.*, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005).

It is axiomatic that, in proceedings before the PTO, claims in an application are to be given their broadest reasonable interpretation consistent with the specification, and that claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Bond*, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990).

On the other hand, it is improper to read a limitation from the specification into the claims. *Liebel-Flarsheim Co. v. Medrad Inc.*, 69 USPQ2d 1801, 1806 (Fed. Cir. 2004).

The specification is the single best guide to the meaning of a disputed term. *In re Translogic Technology Inc.*, 84 USPQ2d 1929, 1935 (Fed. Cir. 2007).

The PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification. *In re Morris*, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).

The specification for the claims on appeal provides the following in the paragraph beginning at page 6, line 6:

1. Sending out of an electronic mail with an ID (S202)

In the lottery system of the present invention, a host 122 of the prize competition uses servers A and B. The host 122 first sends out an electronic mail with *an ID (access key)* to participants 116 by an electronic mail (S202) at server A. A person to whom this electronic mail is sent is the participant 116 in the lottery. *This ID*, which

can be constituted by standard alphanumeric characters, is uniquely allocated to corresponding address of the electronic mail of each participant 116. This ID is a reply electronic mail address (for example, XXX@kuji.rakuten.co.jp, where XXX is ID) for applying for the" lottery. The participant 116 will be participating in the lottery at the time when the participant 116 sends out a reply mail to this address.

The specification for the claims on appeal provides the following in the paragraph beginning at page 10, line 28:

1.      Transmission of Electronic Mail with ID (S302)

The specification for the claims on appeal provides the following in the paragraph beginning at page 11, line 1:

Since the above described process steps in Fig. 5 (S302, - S304, S306, S308, S310, S312, S316, S318 and S320) are similar to those performed in the process steps S202, S204, S206, S208, S210, S212, S216, S218 and S220 shown in Fig. 4 respectively, detailed descriptions for this process are omitted. Also in this embodiment, a plurality of prizes can be prepared.

Words that were defined in the specification must be given the same meaning when used in the claims. *McGill Incorporated v. John Zink Company*, 221 USPQ 944, 949 (Fed. Cir. 1984).

However, the Examiner's Answer fails to show that the skilled artisan would have considered "*the unique ID in Strandberg's system*" and the "*reply electronic mail address of the claims*" to be one in the same.

Prior art references may be indicative of what all those skilled in the art generally believe a certain term means and can often help to demonstrate how a disputed term is used by those skilled in the art. *In re Cortright*, 49 USPQ2d 1464, 1467 (Fed. Cir. 1999).

The interpretation of claim terms should not be so broad that it conflicts with the meaning given to identical terms in other patents from analogous art. *In re Cortright*, 49 USPQ2d 1464, 1467 (Fed. Cir. 1999).

Here, Strandberg discloses that the mail to method includes the call center e-mail address along with the unique ID (Strandberg at paragraph [0023]).

However, Strandberg fails to disclose, teach, or suggest the “*center e-mail address*” of Strandberg and the “*unique ID*” of Strandberg being one in the same.

In reversing the Board of Patent Appeals and Interferences, the U.S. Court of Appeals for the Federal Circuit explained the following within *In re Suitco Surface Inc.*, 94 USPQ2d 1640, 1644 (Fed. Cir. 2010):

*The broadest-construction rubric coupled with the term “comprising” does not give the PTO an unfettered license to interpret claims to embrace anything remotely related to the claimed invention. Rather, claims should always be read in light of the specification and teachings in the underlying patent. See Schriber-Schroth Co. v. Cleveland Trust Co., 311 U.S. 211, 217 [47 USPQ 345] (1940) (“The claims of a patent are always to be read or interpreted in light of its specifications.”).*

## 2. Wendkos.

A review of Wendkos reveals this reference being silent as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

iii. **The claims include sending a first electronic mail to each of said participants, in which the reply electronic mail address is affixed as a unique access key to each of said participants.**

**1. Strandberg.**

Page 9 of the Examiner's Answer asserts that Strandberg discloses:

*sending by a host a first electronic mail in which an electronic mail address is affixed as a unique access key to each one of a plurality of specified participants [0019].*

As shown hereinabove, the Examiner's Answer fails to show that the skilled artisan would have considered “*the unique ID in Strandberg's system*” and the “*reply electronic mail address of the claims*” to be one in the same.

**2. Wendkos.**

A review of Wendkos reveals this reference being silent as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

iv. *The claims include recognizing an application for the lottery from each of said participants by receiving a second electronic mail sent back to said reply electronic mail address.*

1. **Strandberg.**

Page 9 of the Examiner's Answer contends that Strandberg discloses:

*recognizing said specified participants for a lottery by receiving a second electronic mail sent back to said electronic mail address from each of said participants [0020]; [0023].*

However, page 15 of the Appeal Brief argues the absence of this feature.

As a reply to the Appeal Brief, page 18 of the Examiner's Answer contends the following:

*In response to this argument the examiner points out that the main purpose of allocating uniquely said reply electronic mail addresses to each of said participant is that said reply electronic mail addresses are different from each other (claim language), or that each participant can be recognized. Strandberg teaches allocating a unique ID (to be inserted into participants' reply e-mail) to each of the participants so, that each participant can be recognized by this ID in his/her reply e-mail [0019]. Accordingly, so as the purpose of allocating the unique ID in Strandberg's system is the same as allocating the unique e-mail address in the applicant's invention, the examiner maintains that teaching of Strandberg is equivalent to the inventive feature in question.*

In response, the mail to method of Strandberg includes the *call center e-mail address along with the unique ID* (Strandberg at paragraph [0023]).

Nevertheless, Strandberg fails to describe “*the unique ID*” as an address for electronic mail.

For example, Figure 3 of Strandberg is a schematic representation of an exemplar of an electronic mail message used in the present invention (Strandberg at paragraph [0015]).

In step 330, the interested party retrieves the e-mail message and the response message portion sends the unique ID to the sender call center (Strandberg at paragraph [0025]).

If return receipt response is available, *the unique ID is sent to the mail address*, providing date of receipt (Strandberg at paragraph [0025]).

Here, Strandberg fails to disclose, teach, or suggest a second electronic mail “*being sent back to the unique ID*” of Strandberg.

## 2. Wendkos.

A review of Wendkos reveals this reference being *silent* as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

- v. The claims include *notifying each one of said participants who sent back the second electronic mail to the reply electronic mail address of the result of said lottery.*

#### 1. Strandberg.

Page 9 of the Examiner's Answer confirms that:

*Strandberg does not specifically teach that said telemarketing campaign includes conducting a lottery; that said system includes means for limiting the customers (stored in the database) in advance so as to specify participants for the lottery; and notifying each one of the participants of their result of said lottery.*

#### 2. Wendkos.

Page 9 of the Examiner's Answer asserts the following:

*Wendkos teaches a method and system for conducting a lottery via the Internet, wherein participants are notified (are send messages to) of their result in said lottery, and wherein said system includes means for limiting the customers so as to specify a main group for performing the lottery (The function of the smart win process is to make awards to certain participant in a controlled manner) (C. 10, L. 56-67; C. 11, L. 15 - C. 12, L. 8). Furthermore, Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance" feature (C. 10, L. 35-53).*

A review of Wendkos reveals this reference being *silent* as to the presence of an electronic mail address.

As a consequence, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

Thus, Wendkos fails to disclose, teach, or suggest *means for notifying each one of said participants who sent back the second electronic mail to the reply electronic mail address of the result of said lottery.*

**b. For the purposes of this rejection only, claim 6 stands or falls alone.**

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Additional arguments are provided hereinbelow.

- i. *Claim 6 is drawn to the lottery system according to claim 1, wherein the notifying means notifies the result of said lottery to each of the participants, by sending a third electronic mail in which a URL of a page informing of the result and an access keyword, are affixed, to each of the participants.*

**1. Strandberg.**

Strandberg arguably discloses the following in paragraph [0026]:

In **step 360**, the interested party access the Web page 120.

**Step 370**, the Web page 120 sends an interested party present signal to the call center controller.

**Step 380**, if the call center controller is able to establish an *electronic chat link*, the call center controller will pass data from the interested party database to a call center agent, **step 440**.

In one embodiment, the appropriate agent will be selected by the call center controller using predictive agent selection systems and methods.

If the call center controller 160 is unable to establish an *electronic chat* or if the interested party is not interested in electronic chat, the call center may retrieve the *phone number* of the interested party from the interested party database and attempt to call the interested party via traditional phone methods, **step 390**.

One system that facilitates a call center *telephoning* an interested party is the UNISON® telephone call center management system manufactured by the Davox Corporation of Westford, Mass., the Assignee of the present invention.

However, Strandberg *fails* to disclose, teach, or suggest a *third electronic mail address*.

## 2. Wendkos.

A review of Wendkos reveals this reference being *silent* as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the third electronic mail address.

### c. For the purposes of this rejection only, claim 8 stands or falls alone.

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Additional arguments are provided hereinbelow.

- i. **Claim 8 is drawn to the lottery system according to claim 6, wherein the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.**

- 1. Strandberg in view of Wendkos.**

Page 14 of the Examiner's Answer readily admits that Strandberg in view of Wendkos fails to disclose, teach, or suggest that the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

- d. For the purposes of this rejection only, claim 9 stands or falls alone.**

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Additional arguments are provided hereinbelow.

- i. **Claim 9 is drawn to the lottery system according to claim 6, wherein by entering said access keyword and a destination electronic mail address to which the third electronic mail is sent, into the page informing of said result, the page for the win of the prize or the page of the failure in winning the prize can be accessed.**

- 1. Strandberg in view of Wendkos.**

Page 14 of the Examiner's Answer readily admits that Strandberg in view of Wendkos fails to disclose, teach, or suggest teaching that the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

**e. For the purposes of this rejection only, claims 10 and 18 stand or fall together.**

Claim 18 is dependent upon claim 10.

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Additional arguments are provided hereinbelow.

i. *Claim 10 includes means for uniquely allocating a keyword to be entered in a page of a URL, to each of the participants so that the keywords are different from each other.*

**1. Strandberg**

Strandberg arguably discloses that the response message portion includes at least one response method, which provides access to the call center and a unique ID, which identifies the interested party (Strandberg at paragraph [0023]).

Nevertheless, Strandberg fails to explicitly disclose the unique ID being *different from each other*.

**2. Wendkos.**

A review of Wendkos reveals this reference being silent as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

**f. For the purposes of this rejection only, claim 11 stands or falls alone.**

**i. Claim 11 is drawn to the lottery system according to claim 10, wherein the keyword is a destination mail address of said electronic mail.**

**1. Strandberg**

Strandberg arguably discloses that the response message portion includes at least one response method, which provides access to the call center and a unique ID, which identifies the interested party (Strandberg at paragraph [0023]).

Nevertheless, Strandberg fails to disclose, teach, or suggest the unique ID being a destination mail address of said electronic mail.

**2. Wendkos.**

A review of Wendkos reveals this reference being silent as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

**g. For the purposes of this rejection only, claim 17 stands or falls alone.**

Claim 17 is an independent claim.

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Additional arguments are provided hereinbelow.

- i. **Claim 17 includes means for recognizing an application from each of the participants when the participant accesses a page of the URL and enters an electronic mail address of the participant.**

#### **1. Strandberg**

Strandberg arguably discloses that the response message portion includes at least one response method, which provides access to the call center and a unique ID, which identifies the interested party (Strandberg at paragraph [0023]).

Nevertheless, Strandberg fails to disclose, teach, or suggest the unique ID being a destination mail address of said electronic mail.

#### **2. Wendkos.**

A review of Wendkos reveals this reference being silent as to the presence of an electronic mail address.

Thus, the skilled artisan would not have relied upon Wendkos for the teaching of the reply electronic mail address that is absent from within Strandberg.

3. The Examiner erred in the Final Office Action of January 29, 2008 on page 8 (*also on page 14 of the Examiner's Answer*) by indicating a rejection of claims 8 and 9 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 (Strandberg) in view of US Patent No. 5,983,196 (Wendkos) and further in view of U.S. Patent No. 6,024,641 (Sarmo).

- a. Strandberg and Wendkos.

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Moreover, page 14 of the Examiner's Answer *readily admits* that Strandberg in view of Wendkos fails to disclose, teach, or suggest that the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

Additional arguments with respect to Sarmo are provided hereinbelow.

- b. For the purposes of this rejection only, claim 8 stands or falls alone.

- i. Claim 8 is drawn to the lottery system according to claim 6, *wherein the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.*

1. Sarmo.

Sarmo arguably discloses that once a user has accessed the *sign-up page*, the user is able to enter pertinent information 20, such as, for example, the method of payment information and information for user confirmation, such as, for example, an *e-mail address* (Sarmo at column 5, lines 34-37).

In some preferred embodiments, the type of information requested includes, but is not limited to, the player's name, address (which is preferably optional, for reasons of privacy), e-mail address, credit card information, or in-house account information (Sarmo at column 5, lines 23-27).

In some preferred embodiments wherein the player is playing the game through a wide area network, such as, the Internet, in which e-mail may be transmitted, the player can be e-mailed a written confirmation with the selection numbers and/or characters and a confirmation code (Sarmo at column 8, lines 55-60).

The results of the game are posted and the winners are notified by any acceptable means, including, but not limited to, e-mail, postal service, information presented at registration and posting on the web (Sarmo at column 6, lines 14-17).

Nevertheless, Sarmo fails to disclose, teach, or suggest *the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.*

c. **For the purposes of this rejection only, claim 9 stands or falls alone.**

- i. **Claim 9 is drawn to the lottery system according to claim 6, wherein by entering said access keyword and a destination electronic mail address to which the third electronic mail is sent, into the page informing of said result, the page for the win of the prize or the page of the failure in winning the prize can be accessed.**

1. **Sarmo.**

A review of Sarmo reveals this reference being silent as to the presence of a third electronic mail address.

Thus, the skilled artisan would not have relied upon Sarmo for the teaching of the third electronic mail address that is absent from within Strandberg and Wendkos.

- 4. The Examiner erred in the Final Office Action of January 29, 2008 on page 9 (*also on page 15 of the Examiner's Answer*) by indicating a rejection of claims 23-26 under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent Application Publication No. 2002/0161589 (Strandberg) in view of US Patent No. 5,983,196 (Wendkos) and further in view of US Patent No. 6,193,605 (Libby).**

- a. Strandberg and Wendkos.**

For the purposes of brevity, the arguments with respect to claims 1-4, 6, 12-13, and 16 presented hereinabove are incorporated by reference.

Moreover, page 15 of the Examiner's Answer readily admits that Strandberg in view of Wendkos fails to disclose, teach, or suggest that said means for conducting the lottery generates random number on the basis of the number of said participants, thereby obtaining the results of the lottery.

Additional arguments with respect to Libby are provided hereinbelow.

- b. For the purposes of this rejection only, claim 23 stands or falls alone.**

Claim 23 is drawn to the lottery system according to claim 22, wherein said drawing is performed on the basis of the number of said participants of said main group.

i. Libby.

Page 15 of the Examiner's Answer asserts the following:

*Libby et al. teaches a lottery system, wherein the identities of the grand prize participants may be stored in, for example, a grand prize data table (step 318) and the winner of the grand prize may be randomly selected by the random number generator 38 (step 320). Once the winner of the grand prize is selected, the name of the winner is broadcasted after the race (step 322) (C. 7, L. 62 - C. 8, L. 3).*

In response, parent claim 22, includes means for limiting the customers in advance so as to specify a main group for performing a lottery, said main group being defined by at least one of the customers.

Within claim 22, said drawing is performed on the basis of the number of said participants of said main group.

Libby discloses that before broadcasting the video of the race, the game generator compares the preselected winning numbers to all the entries of player selection data (**step 312**) and determines the number of winners (**step 314**) (Libby at column 7, lines 53-57).

However, Libby fails to limit customers to specify a main group.

In the absence of defining a main group, Libby fails to disclose, teach, or suggest a drawing that is performed on the basis of the number of participants of a main group.

c. For the purposes of this rejection only, claim 24 stands or falls alone.

Claim 24 is drawn to the lottery system according to claim 22, wherein said means for conducting the lottery generates random number on the basis of the number of said participants of said main group, thereby obtaining the result of said lottery.

**i. Libby.**

As noted hereinabove, Libby fails to limit customers to specify a main group.

In the absence of defining a main group, Libby fails to disclose, teach, or suggest a drawing that is performed on the basis of the number of participants of a main group.

**d. For the purposes of this rejection only, claim 25 stands or falls alone.**

Claim 25 is drawn to the lottery system according to claim 21, wherein said lottery system further comprising means for recording a result of the lottery; wherein the result of said lottery is previously decided on the basis of the number of said participants of said main group before sending said electronic mail, and wherein said means for conducting the lottery includes means for confirming said unique access key with reference to said means for recording the result of the lottery when receiving said second electronic mail.

**i. Libby.**

A review of Libby reveals this reference being silent as to the presence of e-mail.

Thus, the skilled artisan would not have relied upon Libby for the teaching of the e-mail that is absent from within Strandberg and Wendkos.

Furthermore, as noted hereinabove, Libby fails to limit customers to specify a main group.

In the absence of defining a main group, Libby fails to disclose, teach, or suggest that the result of said lottery is previously decided on the basis of the number of said participants of said main group before sending said electronic mail.

**e. For the purposes of this rejection only, claim 26 stands or falls alone.**

Claim 26 is drawn to the lottery system according to claim 25, wherein said means for conducting the lottery generates random number on the basis of the number of said participants of said main group, thereby deciding the result of the lottery.

**i. Libby.**

As noted hereinabove, Libby fails to limit customers to specify a main group.

In the absence of defining a main group, Libby fails to disclose, teach, or suggest that the result of said lottery is previously decided on the basis of the number of said participants of said main group before sending said electronic mail.

In addition, Libby arguably discloses that a random number generator 38 may be included in the game generator 18 to randomly select the winning numbers representing the win, place and show horses, prior to the broadcast of the race (Libby at column 5, lines 14-17).

The random number generator may be a hardware based number generator or a program based number generator (Libby at column 5, lines 17-19).

Libby arguably discloses that the winning numbers can be randomly chosen and entered into the generator by a user via keyboard 36 (**steps 302 and 304**), or by random number generator 38 (steps 302 and 306)(Libby at column 7, lines 46-48).

The identities of the grand prize participants may be stored in, for example, a grand prize data table (**step 318**) and the winner of the grand prize may be randomly selected by the random number generator 38 (**step 320**) (Libby at column 7, line 61 to column 8, line 3).

Nevertheless, Libby fails to disclose, teach, or suggest the random number generator 38 generating a random number on the basis of the number of participants of the main group.

**CONCLUSION**

The prior art of record fails to disclose, teach or suggest all the features of the claimed invention.

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance.

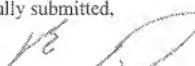
For at least the reasons set forth hereinabove, the rejection of the claimed invention should not be sustained.

Therefore, a reversal of the rejection is respectfully requested.

If any additional fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: August 24, 2010

Respectfully submitted,

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### VIII. CLAIM APPENDIX

1. (PREVIOUSLY PRESENTED) A lottery system utilizing an electronic mail, comprising:

storing means for storing information of customers;

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery;

means for uniquely allocating a reply electronic mail address to each of said specified participants, so that said reply electronic mail addresses are different from each other;

means for sending a first electronic mail to each of said participants, in which the reply electronic mail address is affixed as a unique access key to each of said participants;

means for recognizing an application for the lottery from each of said participants by receiving a second electronic mail sent back to said reply electronic mail address; and

means for notifying each one of said participants who sent back the second electronic mail to the reply electronic mail address of the result of said lottery.

2. (PREVIOUSLY PRESENTED) The lottery system according to claim 1, wherein the result of said lottery is obtained by a drawing performed when the participant applies for said lottery.

3. (PREVIOUSLY PRESENTED) The lottery system according to claim 1, wherein the result of said lottery is previously decided before said electronic mail is sent.

4. (PREVIOUSLY PRESENTED) The lottery system according to claim 1, wherein recognition of the participant for said lottery is performed based on said reply electronic mail address of each of said participants.

5. (CANCELED)

6. (PREVIOUSLY PRESENTED) The lottery system according to claim 1, wherein the notifying means notifies the result of said lottery to each of the participants, by sending a third electronic mail in which a URL of a page informing of the result and an access keyword, are affixed, to each of the participants.

7. (CANCELLED)

8. (PREVIOUSLY PRESENTED) The lottery system according to claim 6, wherein the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

9. (PREVIOUSLY PRESENTED) The lottery system according to claim 6, wherein by entering said access keyword and a destination electronic mail address to which the third electronic mail is sent, into the page informing of said result, the page for the win of the prize or the page of the failure in winning the prize can be accessed.

10. (PREVIOUSLY PRESENTED) A lottery system utilizing an electronic mail, comprising:

storing means for storing information of customers;

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery;

means for uniquely allocating a keyword to be entered in a page of a URL, to each of the participants so that the keywords are different from each other;

means for sending an electronic mail in which the keyword is affixed as a unique access key, to each of the participants;

means for recognizing an application from each of said participants when said participant accesses the page of said URL and enters the keyword; and

means for notifying each of said participants of the result of the lottery.

11. (PREVIOUSLY PRESENTED) The lottery system according to claim 10, wherein the keyword is a destination mail address of said electronic mail.

12. (PREVIOUSLY PRESENTED) The lottery system according to claim 1,

wherein data of said participants who applied for the lottery is collected and stored.

13. (PREVIOUSLY PRESENTED) The lottery system according to claim 1,

wherein said lottery system is entirely incorporated into a computer system.

14. (CANCELED)

15. (CANCELED)

16. (PREVIOUSLY PRESENTED) A method for conducting a lottery, comprising the steps of:

storing information of customers in a database;

limiting the customers stored in the database in advance so as to specify particular participants for a lottery;

allocating uniquely a reply electronic mail address to each of said specified participants so that the reply electronic mail addresses are different from each other;

sending by a host a first electronic mail in which the reply electronic mail address is affixed as a unique access key to each one of a plurality of said specified participants;

recognizing said specified participants for a lottery by receiving a second electronic mail sent back to said reply electronic mail address from each of said participants;

conducting said lottery; and

notifying each one of the participants who sent back the second electronic mail of their result of said lottery.

17. (CURRENTLY AMENDED) A lottery system utilizing an electronic mail, comprising:

storing means for storing information of customers;

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery;

means for uniquely allocating a URL to each of said participants so that the URLs are different from each other;

means for sending an electronic mail in which the URL is affixed as a unique access key to each of the participants;

means for recognizing an application from each of the participants when the participant accesses a page of the URL and enters an electronic mail address of the participant; and

means for notifying each of said participants of the result of said lottery.

18. (PREVIOUSLY PRESENTED) The lottery system according to claim 10, herein the electronic mail contains the URL.

19. (PREVIOUSLY PRESENTED) A lottery system utilizing an electronic mail, comprising:

storing means for storing information of customers;

means for limiting the customers stored in the storing means in advance so as to specify particular participants for a lottery;

means for providing at least one electronic mail address;

means for allocating uniquely the at least one electronic mail address to each one of the specified participants so that the electronic mail addresses are different from each other;

means for sending by a host a first electronic mail to each one of the specified participants, wherein the uniquely allocated at least one electronic mail address is affixed to the first electronic mail;

means for receiving a second electronic mail sent from each one of the specified participants to the uniquely allocated at least one electronic mail address, so as to recognize the participants;

means for conducting the lottery; and

means for notifying each one of the recognized participants who sent the second electronic mail, of a result of the lottery.

20. (PREVIOUSLY PRESENTED) A method for conducting a lottery, comprising the steps of:

storing information of customers in a database;

limiting the customers stored in the database in advance so as to specify particular participants for the lottery;

providing at least one electronic mail address;

allocating uniquely the at least one electronic mail address to each one of the specified participants so that the electronic mail addresses are different from each other;

sending by a host a first electronic mail to each one of the specified participants, wherein the uniquely allocated at least one electronic mail address is affixed to the first electronic mail;

receiving a second electronic mail sent from each one of the specified participants to the uniquely allocated at least one electronic mail address, so as to recognize the participants;

conducting the lottery; and

notifying each one of the recognized participants who sent the second electronic mail, of a result of the lottery.

21. (PREVIOUSLY PRESENTED) A lottery system utilizing an electronic mail comprising:

recording means for recording information concerning customers, each of which has an electronic mail address;

means for limiting the customers in advance so as to specify a main group for performing a lottery, said main group being defined by at least one of the customers;

means for issuing a unique access key to be affixed to said electronic mail address of each of said participants of said main group;

means for assigning said unique access key to said electronic mail address to generate a reply electronic mail address for the lottery after specifying said main group for the lottery;

means for recording said unique access key in association with said electronic mail address of each of said participants of said main group;

means for sending by a host a first electronic mail to said reply electronic mail address of each of said participants of said main group, in which said unique access key is affixed to said reply electronic mail address of each of said participants of said main group;

means for recognizing an application for the lottery from each of said participants by receiving a second electronic mail sent back to said reply electronic mail address;

means for distinguishing said access key with reference to said means for recording said unique access key;

means for conducting the lottery; and

means for notifying each one of said participants who sent back said second electronic mail to said reply electronic mail address, of the result of said lottery.

22. (PREVIOUSLY PRESENTED) The lottery system according to claim 21, wherein a result of said lottery is obtained by a drawing performed when said participant applies for the lottery.

23. (PREVIOUSLY PRESENTED) The lottery system according to claim 22, wherein said drawing is performed on the basis of the number of said participants of said main group.

24. (PREVIOUSLY PRESENTED) The lottery system according to claim 22, wherein said means for conducting the lottery generates random number on the basis of the number of said participants of said main group, thereby obtaining the result of said lottery.

25. (PREVIOUSLY PRESENTED) The lottery system according to claim 21, wherein said lottery system further comprising means for recording a result of the lottery; wherein the result of said lottery is previously decided on the basis of the number of said participants of said main group before sending said electronic mail, and wherein said means for conducting the lottery includes means for confirming said unique access key with reference to said means for recording the result of the lottery when receiving said second electronic mail.

26. (PREVIOUSLY PRESENTED) The lottery system according to claim 25, wherein said means for conducting the lottery generates random number on the basis of the number of said participants of said main group, thereby deciding the result of the lottery.

**IX. EVIDENCE APPENDIX**

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the examiner and relied upon by appellant in the appeal, thus there is no evidence attached hereto.

**X. RELATED PROCEEDING APPENDIX**

There are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Boards' decision in this appeal, and thus there are no copies of decisions rendered by a court or the Board in any proceeding to be attached hereto.